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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/676,020	09/29/2000	Steven M. Bennett	042390.P9236	3234

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EXAMINER

AZAD, ABUL K

ART UNIT	PAPER NUMBER
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2654

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/676,020

Applicant(s)

BENNETT, STEVEN M.

Examiner

ABUL K. AZAD

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This action is in response to the communication filed on July 22, 2005.
2. Claims 1-3 and 5-23 are pending in this action.
3. The applicant's arguments with respect to claims 1-3 and 5-23 have been fully considered but they are not deemed to be persuasive. For examiner's response to the applicant's arguments or comments, see the detailed discussion in the Response to the Arguments section.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3, 5 and 7-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Woods et al. (US 6,510,417).

As per claim 1, Woods teaches, "a system comprising":

"a user" (col. 6, lines 39-40);

"a module to identify the user" (col. 6, lines 59-60);

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"a voice user interface to facilitate communications between the user and the system" (col. 6, lines 39-40);

"a database to store contextual information pertaining to the user" (col. 13, lines 1-2); and

"the system to use user-specific contextual information to dynamically change the voice user interface, wherein the voice user interface alters navigational options through the voice user interface that are presented to the user based upon environmental information at the location of the user" (col. 24, line 30 to col. 25, line 65).

As per claim 2, Woods teaches, "an identity of the user and current location of the user" (col. 24, line 30 to col. 25, line 65).

As per claim 3, Woods teaches, "wherein the user-specific contextual information comprises: an identity of the user; and a current task of the user" (col. 24, line 30 to col. 25, line 65).

As per claim 5, Woods teaches, "wherein the environmental information comprises channel characteristic of a communication device that the user uses to communicate between the user and the system" (col. 13, lines 17-29).

As per claim 7, Woods teaches, "a computer program to dynamically generate the ordered delivery of heterogeneous information to the user" (col. 5, lines 45-58).

As per claim 8, Woods teaches, "wherein the ordered delivery of heterogeneous information is organized based upon the user-specific contextual information" (col. 6, lines 59-67).

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As per claim 9, Woods teaches, "wherein the ordered delivery of heterogeneous information is organized based upon environmental information" (col. 13, lines 17-39).

As per claim 10, Woods teaches, "wherein the ordered delivery of heterogeneous information is organized based upon the sensitivity of the information being delivered to the user" (col. 33, lines 32-58).

As per claim 11, Woods teaches, "a telephony interface device capable of communicating to the user in a human voice" (col. 6, lines 39-40).

As per claim 12, Woods teaches, "a module to generate a grammar file to enhance the ability of the system to comprehend communications between the user and the system" (col. 9, lines 38-52).

As per claim 13, Woods teaches, "wherein the environmental information is communicated to the system by the user" (col. 25, lines 15-18).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woods et al. (US 6,510,417) as applied to claim 1 above, and further in view of Goldberg et al. (US 5,970,446).

Woods does not explicitly teach environmental information is determined by the audio scene information at the location. However, Goldberg teaches environmental information is determined by the audio scene information at the location (Fig. 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use Goldberg's teaching of determining environmental information in the invention of Woods because Goldberg teaches his invention provide a highest percent of correct speech recognition by selecting the correct model using audio scene information of the location (col. 5, lines 1-6).

8. Claims 15-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woods et al. (US 6,510,417) in view of Kanevsky et al. (US 5,774,525).

As claim 15, Woods teaches, "a method comprising":

"using user-specific contextual information to change a voice user interface and using environmental information to change the voice user interface" (col. 24, line 30 to col. 25, line 65); and

Woods does not explicitly teaches, "altering the security characteristics presented to the user by the voice user interface based upon the environment information at the location of the user". However, Kanevsky teaches, "altering the security characteristics presented to the user by the voice user interface based upon the environment information at the location of the user" (col. 6, lines 48-59 and col. 9, lines 8-25). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use Kanevsky's teaching of altering security characteristics presented to the user based up on the environmental information at the location, in the invention of

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Woods because Kanevsky teaches to protect against eavesdroppers gain access to the service or facility (col. 2, lines 24-26).

As per claims 18 and 21, they are interpreted and thus rejected for the same reasons set forth in the rejection of claim 15.

As per claims 16, 19 and 22, Woods teaches, "generating the ordered delivery of heterogeneous information to the user based upon the user-specific contextual information" (col. 6, lines 59-67).

As per claims 17, 20 and 23, Woods teaches, "generating the ordered delivery of heterogeneous information to the user based upon environmental information" (col. 13, lines 17-39).

Response to Arguments

9. The applicant argues, "Woods does not teach altering navigational options through the voice user interface (VUI) that are presented to the user based upon environmental information at the Location of the user. In contrast, Woods merely teaches that navigational option through a VUI may be altered based upon information received from a user through voice recognition or manually entering information into a communication device (e.g. pressing keys on a phone pad). For example, col. 24 of Woods suggests a scenario where a user's phone number is captured through traditional Caller ID. A user is greeted with, "Hello Steve Woods. Please say your PIN or enter it on the numeric keypad." Col. 24, lines 44-45. The user then verbally responds by providing his PIN. Col. 24, lines 46-49. Based on this input, the navigational options

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of the VUI are changed by providing the user with options such as: weather, movies, traffic, stocks and sports. Col. 24, lines 49-51. The user then selects weather. Again, the navigational options change based on input received from the user. Col. 24, lines 55-60. As such, altering navigation options of a VUI based on input received from a user is not the same altering navigation options of a VUI based on environmental information at the location of the user. Hence, Woods fails to disclose each and every limitation of claim 1. Therefore, claim 1 is not anticipated by Woods under 35 U.S.C. §102(e).

The examiner disagrees with the applicant's above assertion because "environmental information at the location of the user" is broadly interpreted as defined by the specification and further defined by the dependent claims. It has been held by the court that during patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." In re Hyatt, 211 F.3d1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). The applicant has defined in the specification page 7 and in claims 5 and 6, "environmental information at the location of the user". According to applicant's definition the claimed limitation teaches by Woods at col. 25, lines 1-18, particularly reads on "zip code" and also at col. 13, lines 17-29, particularly reads on "a call from a landline or cell phone".

10. The applicant further asserts that the applicant reserves the right to swear behind the effective prior art date of this reference.

The examiner does not see such a paper filed with response.

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11. The applicant further argues, "Woods does not suggest a combination with Goldberg, and Goldberg does not suggest a combination with Woods because Goldberg specifically teaches away from such a combination. Woods is merely concerned with altering navigation options of a VUI based on user-supplied input. Whereas, Goldberg merely mentions the use of noise models to alter speech recognition within phone calls. It would be impermissible hindsight to combine Woods and Goldberg based on applicants' own disclosure".

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, motivation found in Goldberg reference, Goldberg teaches his invention provide a highest percent of correct speech recognition by selecting the correct model using audio scene information of the location (col. 5, lines 1-6).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does

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not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that Goldberg is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Goldberg solves a particular problem of audio scene information at the location of the user.

12. The applicant further argues, "Woods does not suggest a combination with Kanevsky, and Kanevsky does not suggest a combination with Woods because Kanevsky specifically teaches away from such a combination. Woods is merely concerned with altering navigation options of a VUI based on user supplied input. Whereas, Kanevsky is merely concerned with providing security measures to prevent unauthorized access of user accounts. It would be impermissible hindsight to combine Woods and Kanevsky based on applicants' own disclosure".

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in

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the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, motivation found in the Kanevsky reference.

In response to applicant's argument that Kanevsky is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Kanevsky solve a particular problem of security level.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abul K. Azad** whose telephone number is **(571) 272-7599**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richemond Dorvil**, can be reached at **(571) 272-7602**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Or faxed to: **(571) 273-8300**.

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Hand-delivered responses should be brought to **401 Dulany Street, Alexandria, VA-22314** (Customer Service Window).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 26, 2005

A handwritten signature in black ink, appearing to read 'A.K. Azad', with a large, stylized flourish at the end.

Abul K. Azad
Primary Examiner
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